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| 邮政编码: 100101<br>北京市朝阳区北辰东路 8 号汇宾大厦 A0601<br>北京市柳沈律师事务所<br>王志森, 黄小临                                       | 发文日期<br> |
| 申请号: 2004100749223<br> |   |
| 申请人: 三星电子株式会社  |   |
| 发明创造名称: 自动控制激光二极管输出的装置   |   |

## 第一次审查意见通知书

1. ☒ 应申请人提出的实审请求, 根据专利法第 35 条第 1 款的规定, 国家知识产权局对上述发明专利申请进行实质审查。  
☐ 根据专利法第 35 条第 2 款的规定, 国家知识产权局决定自行对上述发明专利申请进行审查。
2. ☒ 申请人要求以在:
- KR      专利局的申请日      2001 年 02 月 16 日为优先权日,  
            专利局的申请日      年    月    日为优先权日,  
            专利局的申请日      年    月    日为优先权日,  
            专利局的申请日      年    月    日为优先权日,  
            专利局的申请日      年    月    日为优先权日。
- ☐ 申请人已经提交了经原申请国受理机关证明的第一次提出的在先申请文件的副本。  
☐ 申请人尚未提交经原申请国受理机关证明的第一次提出的在先申请文件的副本, 根据专利法第 30 条的规定视为未提出优先权要求。
3. ☐ 经审查, 申请人于:  
    年    月    日提交的      不符合实施细则第 51 条的规定;  
    年    月    日提交的      不符合专利法第 33 条的规定;  
    年    月    日提交的
4. 审查针对的申请文件:  
☐ 原始申请文件。 ☒ 审查是针对下述申请文件的
- 申请日提交的原始申请文件的权利要求第      项、说明书第      页、附图第      页;  
    2004    年    月    日提交的权利要求第 1-5    项、说明书第 1-    页、附图第 1-6    页;  
    年    月    日提交的权利要求第      项、说明书第      页、附图第      页;  
    年    月    日提交的权利要求第      项、说明书第      页、附图第      页;  
    2004    年    月    日提交的说明书摘要以及摘要附图。
5. ☐ 本通知书是在未进行检索的情况下作出的。  
☒ 本通知书是在进行了检索的情况下作出的。  
☒ 本通知书引用下述对比文献(其编号在今后的审查过程中继续沿用):  
    编号      文件号或名称      公开日期 (或抵触申请的申请日)

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JP 特开平 11-250459 A

1999. 9. 17

## 6. 审查的结论性意见:

☐ 关于说明书:☐ 申请的内容属于专利法第 5 条规定的不予授予专利权的范围。

- ☐ 说明书不符合专利法第 26 条第 3 款的规定。  
☐ 说明书不符合专利法第 33 条的规定。  
☐ 说明书的撰写不符合实施细则第 18 条的规定。

☒ 关于权利要求书:

- ☒ 权利要求 1, 2 不具备专利法第 22 条第 2 款规定的新颖性。  
☐ 权利要求 不具備专利法第 22 条第 3 款规定的创造性。  
☐ 权利要求 不具备专利法第 22 条第 4 款规定的实用性。  
☐ 权利要求 属于专利法第 25 条规定的不授予专利权的范围。  
☒ 权利要求 4 不符合专利法第 26 条第 4 款的规定。  
☐ 权利要求 不符合专利法第 31 条第 1 款的规定。  
☐ 权利要求 不符合专利法第 33 条的规定。  
☐ 权利要求 不符合专利法实施细则第 2 条第 1 款关于发明的定义。  
☐ 权利要求 不符合专利法实施细则第 13 条第 1 款的规定。  
☒ 权利要求 1-3, 5 不符合专利法实施细则第 20 条的规定。  
☐ 权利要求 不符合专利法实施细则第 21 条的规定。  
☐ 权利要求 不符合专利法实施细则第 22 条的规定。  
☐ 权利要求 不符合专利法实施细则第 23 条的规定。

上述结论性意见的具体分析见本通知书的正文部分。

7. 基于上述结论性意见, 审查员认为:

- ☐ 申请人应按照通知书正文部分提出的要求, 对申请文件进行修改。  
☒ 申请人应在意见陈述书中论述其专利申请可以被授予专利权的理由, 并对通知书正文部分中指出的不符合规定之处进行修改, 否则将不能授予专利权。  
☐ 专利申请中没有可以被授予专利权的实质性内容, 如果申请人没有陈述理由或者陈述理由不充分, 其申请将被驳回。

8. 申请人应注意下述事项:

- (1) 根据专利法第 37 条的规定, 申请人应在收到本通知书之日起的肆个月内陈述意见, 如果申请人无正当理由逾期不答复, 其申请将被视为撤回。  
(2) 申请人对其申请的修改应符合专利法第 33 条的规定, 修改文本应一式两份, 其格式应符合审查指南的有关规定。  
(3) 申请人的意见陈述书和/或修改文本应邮寄或递交国家知识产权局专利局受理处, 凡未邮寄或递交给受理处的文件不具备法律效力。  
(4) 未经预约, 申请人和/或代理人不得前来国家知识产权局专利局与审查员举行会晤。

9. 本通知书正文部分共有 2 页, 并附有下列附件:

- ☒ 引用的对比文件的复印件共 1 份 3 页。 ☐ 6

审查员: 王靖(9619)  
 2005 年 11 月 1 日

审查部门 审查协作中心



## 第一次审查意见通知书正文

申请号：2004100749223

经审查，提出如下意见：

权利要求1要求保护一种自动控制具有现时功率值下光信号的激光二极管输出的装置，对比文件1（JP特开平11-250459 A）也公开了一种自动控制现时功率值下激光二极管功率的装置（参见说明书0011-0020段，附图1），并具体公开了以下技术特征：一个采样器（参见附图标记5）用于对来自激光二极管的光信号的现时功率值进行采样；一个比较电路7（对应控制单元），用于根据采样的现时功率值S4和基于用于接收激光二极管输出的介质的类型的基本功率值S5输出一个目标输出值，一个控制器（参见附图标记11），根据目标输出值，控制激光二极管的输出，由此可见，对比文件1公开了权利要求1记载的技术方案的全部技术特征，并且二者属于相同的技术领域，能够解决同样的技术问题，并取得相同的效果，由此，权利要求1与对比文件1相比不具有专利法第二十二条第二款规定的新颖性。

权利要求2的附加技术特征也已经被对比文件1的上述位置公开了，其中采样保持单元5（相应寄存器单元），在比较电路之前存储采样器的输出，低通滤波单元8（对应基本寄存器单元），在比较电路之前存储基本值，由此可见在权利要求1不具有新颖性的基础上，权利要求2也不具有专利法第二十二条第二款规定的新颖性。

此外，权利要求中还存在下述缺陷：

权利要求4中所述的“基本功率水平基于介质的制造者”的特征在说明书中没有同样的记载，没有得到说明书形式上的支持，不符合专利法第二十六条的四款的规定。

权利要求1、3中所述的“根据（基于）接收激光二极管输出的介质类型”一句含义不清，介质类型不是一个具体的部件，无法接收激光二极管的输出，原表述导致不清楚；

权利要求2中先后两次所述的“用于在其……”以及权利要求5中所述“用于在其……”中“其”指代不清楚，导致权利要求保护范围的不清楚；

权利要求3中对于所述的“以生成具有表示多个功率水平的……”中，对所述“多个功率水平”并没有进一步的限定其具体是哪些功率水平，而我们知道激光二极管的现时



功率应该只有一个，如何获得表示多个功率水平的多个位的采样值是不清楚的；另外所述"一个基本寄存器单元，...存储基本功率值"中没有表明基于多个功率水平存储的基本功率值是一个还是多个，导致不清楚；此外，所述"同时比较第一多个位的各位与第二多个位的相应位"中，由于"第一多个位"与"第二多个位"在此前都有限定过，其含义本身也不清楚，导致此处表述的不清楚，上述不清楚导致权利要求3技术方案的不清楚，保护范围的不确定；

上述不清楚导致权利要求1-3，5不符合专利法实施细则第二十条第一款的规定。其中涉及权利要求1，2的不清楚的缺陷请在克服其新颖性缺陷的同时给予克服。

请针对上述审查意见在指定的四个月期限内对本申请进行修改，或者陈述意见，并在修改权利要求的时候注意对说明书发明内容部分进行相应的修改，以使独立权利要求得到说明书形式上的支持。同时请保证所作修改满足专利法第三十三条的规定。申请人应陈述修改后的权利要求具有新颖性的充分理由。并注意修改后的权利要求间应具有相同或相应的特定技术特征，从而具有单一性。

申请人应提供修改所涉及的原文复印件，并将修改之处用彩笔标示清楚。针对审查员关于权利要求的审查意见，申请人所陈述的理由应体现在权利要求中。

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# The Patent office of the People's Republic Of China

Address: No. 6 XITUCHENG ROAD, JIMEN BRIDGE, HAIDIAN DISTRICT, BEIJING

Post Code: 100088

|   |                                   |
|---|-----------------------------------|
| Applicant: <u>SAMSUNG ELECTRONICS CO.</u>             | ISSUING DATE: <u>2005. 12. 09</u> |
| Agent: <u>XiaoMing Huang</u>                          |                                   |
| Application No.: <u>200410074822.3</u>                |                                   |
| Title: <u>APPARATUS FOR AUTOMATICALLY CONTROLLING</u> |                                   |

## THE FIRST OFFICE ACTION

1. ☒ The applicant filed a request for substantive examination on Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ according to Article 35 Paragraph 1 of the Patent Law. The examiner has conducted a substantive examination to the above-mentioned patent application.  
☐ According to Article 35 paragraph 2 of the Patent Law. Chinese Patent office decided on its own initiative to conduct a substantive examination to the above-mentioned patent application.
2. ☒ The applicant requested to take  
 Year 01 Month 2 Day 16 on which an application is filed with the KR patent office as the priority date.  
 Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ on which an application is filed with the \_\_\_\_ patent office as the priority date.  
 Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ on which an application is filed with the \_\_\_\_ patent office as the priority date.  
☐ The applicant has submitted the copy of the earliest application document certified by the competent authority of that country.  
☐ According to Article 30 of the Patent Law, if the applicant has not yet submitted the copy of the earliest application document certified by the competent authority of that country, the declaration for Priority shall be deemed not to have been made.  
☐ This application is a PCT application.
3. ☐ The applicant submitted the amended document(s) on Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ and Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ after examination, \_\_\_\_ submitted on Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ is/are not accepted.  
 \_\_\_\_ submitted on Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_ is/are not accepted  
 because the said amendment(s) ☐ is/are not in conformity with Article 33 of the Patent Law.  
☐ is/are not in conformity with Rule 51 of the Implementing Regulations.  
☐ The concrete reason(s) for not accepting the amendment(s) is/are presented on the text of Office Action.
4. ☐ The examination has been conducted based on the application text as originally filed.  
☒ The examination has been conducted based on the following text(s):  
 page(s) \_\_\_\_ of the specification, Claim(s) \_\_\_\_, and figure(s) \_\_\_\_ in the original text of the application submitted on the filing day.  
 page(s) 1-9 of the specification, claim(s) 1-5, and figure(s) 1-6 submitted on Year 04 Month 9 Day 1  
 page(s) \_\_\_\_ of the specification, claim(s) \_\_\_\_, and figure(s) \_\_\_\_ submitted on Year \_\_\_\_ Month \_\_\_\_ Day \_\_\_\_
5. ☐ This notification was made without undergoing search.  
☒ This notification was made with undergoing search.  
☒ The following reference document(s) is/are cited:(the reference numeral(s) thereof will be used in the examination procedure hereafter)

| NO. | Reference No. or Title  | Publishing Date     |
|-----|-------------------------|---------------------|
| 1   | <u>JP特开平 11-250459A</u> | <u>1999. 9. 17.</u> |
| 2   |                         |                     |
| 3   |                         |                     |
| 4   |                         |                     |
| 5   |                         |                     |

6. Concluding comments

☐ on the specification:

- ☐ The contents of the application are in contrary to Article 5 of the Patent Law and therefore are not patentable.
- ☐ The contents of the application do not possess the practical applicability as prescribed in Paragraph 4 of Article 5 of the Patent Law.
- ☐ The specification is not in conformity with the provision of Paragraph 3 of Article 26 of the Patent Law.
- ☐ The presentation of the specification is not in conformity with the provision of Rule 18 of the Implementing Regulations.

☒ on the claims:

- ☐ Claim(s) \_\_\_\_\_ belong(s) to non-patentable subject matter as prescribed in Article 25 of the Patent law.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with the definition of a patent as provided in Rule 2 paragraph 1 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ do(es) not possess novelty as requested by Article 22 paragraph 2 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ do(es) not possess inventiveness as requested by Article 22 paragraph 3 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ do(es) not possess practical applicability as requested by Article 22 paragraph 4 of the Patent Law.
- ☒ Claim(s) 4 do(es) not comply with the provision of Article 26 paragraph 4 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Article 31 paragraph 1 of the Patent Law.
- ☒ Claim(s) 1-3, 5 do(es) not comply with provision of Rule 20 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 21 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 22 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with provision of Rule 23 of the Implementing Regulations.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Article 9 of the Patent Law.
- ☐ Claim(s) \_\_\_\_\_ do(es) not comply with the provision of Rule 13 paragraph 1 of the Implementing Regulations.

The detailed analysis for the above concluding comments is presented on the text of this Office Action.

7. Based on the above concluding comments, the examiner is of the opinion that

- ☐ The applicant should amend the application document(s) in accordance with the requirement as specified in the Office Action.
- ☒ The applicant should, in his observation, expound the patentability of the application of the application, amend the defects pointed out in the Office Action; or the application can hardly be approved.
- ☐ The examiner deems that the application lacks substantive features to make it patentable. Therefore, the application will be rejected if no convincing reasons are provided to prove its patentability.

8. The applicant should pay attention to the following matters:

- (1) According to Article 37 of the Patent Law, the applicant is required to submit his observations within Four months upon receipt of this Office Action. If the time limit for making response is not met without any justified reason, the application to have been withdraw.
- (2) The amendment(s) made by the applicant must meet the requirements of Article 33 of the Patent Law. The amended text should be in duplicate, its format should conform to the related confinement in the Guidance for Examination.
- (3) The applicant and/or the agent should not go to the Chinese Patent Office to interview the examiner without being invited.
- (4) The observation and/of the amended document(s) must be mailed or delivered to the Receiving Section of the Chinese Patent Office. No legal effect shall apply for any document(s) that not mailed to or reached the Receiving Section.

9. The text of this Office Action contains 2 page(s), and has the following attachment(s):

☒ 1 copies of the cited references, all together 6 pages.

☐

Examination Dept. No. \_\_\_\_\_ Examiner \_\_\_\_\_ Seal of Examination Dept. for business only \_\_\_\_\_

(if the Office Action wasn't stamped by the specified seal, it has no legal effect)



## TEXT OF THE FIRST OFFICE ACTION

Application No.: 2004100749223

After examination, the opinions are provided as follows:

Claim 1 is for an apparatus for automatically controlling an output of a laser diode having an optical signal with a current power value, Reference 1 (JP 特开平 11-250459A) also discloses an apparatus for automatically controlling the laser diode power having a current power value (refer to paragraphs 0011-0020, Fig. 1 of the specification), and the following technical features are concretely disclosed: a sampler (refer to reference sign 5) is used for sampling the current power value of the optical signal from the laser diode, a comparing circuit 7 (corresponding to an operation unit disclosed in claim 1) is used for outputting a target output value based upon the sampled current power value S4 and a basic power value S5 based upon a type of medium which is used for receiving the output of the laser diode, and a controller (refer to reference sign 11) is used for controlling the output of the laser diode based upon the target output value. It can be seen that Reference 1 discloses all the technical features of the technical solution disclosed in claim 1, and claim 1 and Reference 1 belong to an identical technical field, settle an identical technical problem, and obtain an identical effect. Thus claim 1 does not possess novelty as prescribed in Article 22, paragraph 2 of the Patent Law of China in comparison with Reference 1.

The additional technical features of claim 2 are also been disclosed in Reference 1, wherein a sample-and-hold circuit 5 (corresponding to a register unit disclosed in claim 2) which is used for storing the output of the sampler prior to the comparing circuit, and a low pass filter 8 (corresponding to a basic register unit disclosed in claim 2) which is used for storing basic power value prior to the comparing circuit are disclosed. It can be seen. claim 2 does not possess novelty as prescribed in Article 22, paragraph 2 of the Patent Law of China as claim 1 does not possess novelty.

In addition, the claims also have following defects:

The feature of "the basic power is based upon a maker of the medium" disclosed in claim 4 is not correspondingly disclosed in the specification, and is not supported by the specification in form, thus claim 4 does not comply with the provision of Article 26, paragraph 4 of the Patent Law of China.

The meaning of description of "according to a type of a medium which is to receive the output of the laser diode" disclosed in claims 1 and 3 is unclear, the type of the medium is not a detailed component, thus can not receive the output of the laser diode,

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therefore above description is unclear.

Defects of formality, details omitted.

“to generate ... having a plurality of power levels” is disclosed in claim 3, the definition of “a plurality of power levels” does not further define in detail which power levels are, but we know that number of the current power of the laser diode is only one; and it is unclear how to obtain a sampled value having a plurality of bits indicative of a plurality of power levels. In addition, said definition of “a basic register unit ... storing the basic power value ...” does not disclose whether the number of the basic power value is stored based upon a plurality of power levels is one or more than one, thus claim 3 is unclear. In addition, since the definitions of “the first plurality” and “the second plurality” of “simultaneously comparing ones of the first plurality of bits with corresponding ones of the second plurality of bits” are not defined in the preceding text, the meanings per se of the definitions are unclear, which renders the statement to the description unclear, above unclearness renders the technical solution of claim 3 being unclear and the protection scope being indefinite.

Above unclearness renders that claims 1-3 and 5 do not comply with the provision of Rule 20, paragraph 1 of the Implementing Regulations of the Patent Law of China, wherein the defect of unclearness of claims 1 and 2 shall be overcome if the defect of lacking novelty is overcome.

The amendment to the present application shall be made within 4-month time limit as stated in above opinions or the opinions shall be made, and it shall be noted that a corresponding amendment to the contents of the invention of the specification should be made during the amendment to the claims so that the independent claims can be supported by the specification in form, meanwhile it shall be ensured that the amendment should comply with the provision of Article 33 of the Patent Law of China. The applicant shall come up with the sufficient reasons to prove that the amended claims possess novelty, and it shall be noted that amended claims should have identical or corresponding specific technical features so as to possess uniqueness.

The applicant shall submit a copy of the original text concerning the part due to be amended, in which the amendment should be marked with color pen, and the reasons stated by the applicant shall be disclosed in the Claims according to the opinions to the claims made by the examiner.

PLI

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